REMARKS

Applicant has carefully reviewed the Application in light of the Final Office Action transmitted February 11, 2008 (*"Office Action"*). At the time of the Office Action, Claims 1-22 and 24-39 were pending in the Application. The *Office Action* rejects all pending claims. Applicant believes all previously pending claims are allowable over the prior art of record and respectfully requests reconsideration and allowance of all claims.

I. Rejections under 35 U.S.C. § 102(b)

The Examiner rejects Claims 1-8, 10-17, 22, and 24-39 under 35 U.S.C. § 102(b) as anticipated by U.S. Patent No. 5,574,724 issued to Bales et al. (*"Bales"*). Applicants respectfully traverse this rejection and submit that *Bales* does not describe, expressly or inherently, each and every limitation of the claims.

A. Claims 1-8, 10-17, 19-21, and 33-39 are allowable because *Bales* fails to teach a method for supporting communications comprising "tunneling the message in the audio communication link to the remote device."

Consider Applicant's independent Claim 1, which recites:

> A method for supporting communications comprising:
> establishing a packet-based audio communication link with a remote device;
> informing a local computing device of the audio communication link;
> receiving a message from the local computing device, the message requesting identification of enhanced media capabilities associated with the remote device;
> tunneling the message in the audio communication link to the remote device;
> receiving a tunneled response in the audio communication link from the remote device, the response identifying the enhanced media capabilities associated with the remote device; and
> forwarding the response to the local computing device.

Among other aspects, *Bales* fails to disclose "tunneling the message in the audio communication link to the remote device," as Claim 1 requires.

As teaching these aspects, the *Office Action* points to *Bales*, column 3, lines 35-60. *Office Action*, p. 3. The cited portion of *Bales* states:

> Communication terminal 106 requests that switch node 101 add video capability to the call. Switch node 101 does this by transmitting TRANS 201

(transport) message as illustrated in FIG. 2 to switch node 102. TRANS 201 message requests that a video capability be added to the call. (The actual contents of the message will be discussed in greater detail later.) If switch node 102 can provide the video capability, it transmits back TRANS ACK 204 message as illustrated in FIG. 2. In addition, switch node 102 transmits TRANS 202 message of FIG. 2 to switch node 103. This message also requests that a video capability be set up between switch node 102 and switch node 103. Assuming switch node 103 is capable of providing the video capability, it transmits back to switch node 102 TRANS ACK 206 message and transmits TRANS 203 to switch node 104.

Col. 3, lines 35-50. However, this cited portion discusses nothing more than conventional signaling. *Bales* fails to describe, expressly or inherently, "tunneling the message in the audio communication link to the remote device," as Claim 1 requires.

With regard to teaching these aspects, the *Office Action* explains that "[t]he message is transmitt[ed] while the call is already established. Therefore, the message request must be tunneled." *Office Action*, p. 3. "To establish inherency, the extrinsic evidence must make clear that the missing descriptive matter is necessarily present . . . . Inherency, however, may not be established by probabilities or possibilities. The mere fact that a certain thing may result from a given set of circumstances is not sufficient." M.P.E.P. § 2112; *see In re Robertson*, 49 U.S.P.Q.2d 1949, 1150-51 (Fed. Cir. 1999). "In relying upon the theory of inherency, the examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art." M.P.E.P. § 2112; *Ex parte Levy*, 17 U.S.P.Q.2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

Even if the *Office Action* provided some basis to support the inherency argument for tunneling a message, *Bales* still fails to teach "tunneling the message in the audio communication link to the remote device," as the Claim requires. In the specification, the claim term "tunneling" is described as follows:

> [T]unneling represents encapsulating data or messages in packets conforming to a protocol used by network elements and embedding the packets in a stream of packets flowing through a communication link. For example, signaling or video data may be encapsulated in packets conforming to RTP for transmission as enhanced media packets over audio link 24 by telephony devices 12.

Specification, p. 10, ll. 23-28. *Bales* states that audio and video capabilities can only be provided "in the following two ways: first, a channel can be used for the video and a second channel can be used for the audio. Second, the audio information can be included with the video information in the video channel." Col. 3, ll. 62-66. *Bales* never mentions that video information can be provided using an audio channel. *Id.* In fact, *Bales* teaches away from tunneling a message containing video information in the audio communication link.

For at least these reasons, *Bales* does not describe, expressly or inherently, a method for supporting communications comprising "tunneling the message in the audio communication link to the remote device," as Claim 1 requires. Independent Claims 10, 19, 33, 35, and 39 include limitations that, for substantially similar reasons, are not taught by *Bales.* Because *Bales* does not describe every element of independent Claims 10, 19, 33, 35, and 39, Applicant respectfully requests reconsideration and allowance of Claims 10, 19, 33, 35, and 39 and their respective dependent claims.

B.   Claims 22-26 are allowable.

The *Office Action* fails to address the elements of independent Claim 22. Therefore, the *Office Action* fails to make a prima facie case for any rejection of Claim 22. Claim 22 and its dependent claims are allowable over the cited references.

C.   Claims 27-32 are allowable because *Bales* fails to teach a method for supporting communications comprising "aggregating the media capabilities associated with the packet-based telephony device and the enhanced media capabilities associated with the computing device."

Consider Applicant's independent Claim 27, which recites:

> A method for supporting communications comprising:
> associating a packet-based telephony device with a computing device;
> determining media capabilities associated with the packet-based telephony device;
> determining enhanced media capabilities associated with the computing device;
> aggregating the media capabilities associated with the packet-based telephony device and the enhanced media capabilities associated with the computing device; and
> registering the aggregated media capabilities with a call manager, the call manager operable to associate the aggregated media capabilities with the packet-based telephony device.

Among other aspects, *Bales* fails to disclose "aggregating the media capabilities associated with the packet-based telephony device and the enhanced media capabilities associated with the computing device," as Claim 27 requires.

Claim 27 requires a method for supporting communications comprising "aggregating the media capabilities associated with the packet-based telephony device and the enhanced media capabilities associated with the computing device." As teaching these aspects, the *Office Action* points to *Bales*, figure 2 and 202. *Office Action*, p. 6-7. In describing element 202 of figure 2, *Bales* states, "switch node 102 transmits TRANS 202 message of FIG. 2 to switch node 103. This message also requests that a video capability be set up between switch node 102 and switch node 103." Col. 3, lines 44-47. However, *Bales* fails to describe, expressly or inherently, "aggregating the media capabilities associated with the packet-based telephony device and the enhanced media capabilities associated with the computing device," as Claim 27 requires.

For at least these reasons, Claim 27 is allowable. Independent Claim 29 includes limitations that, for substantially similar reasons, are not taught by *Bales*. Because *Bales* does not describe every element of independent Claims 27 and 29, Applicant respectfully requests reconsideration and allowance of Claims 27 and 29 and their respective dependent claims.

II. Rejections under 35 U.S.C. § 103(a)

The *Office Action* rejects Claims 9, 18, and 21 under 35 U.S.C. § 103(a) as unpatentable over *Bales* in view of U.S. Patent No. 6,434,568 issued to Bowman-Amuah ("*Bowman-Amuah*"). As described above, Applicant has shown that *Bales* fails to disclose all limitations of independent Claims 1, 10, 19, 22, 27, 29, 33, 35, and 39. *Bowman-Amuah* fails to remedy the deficiencies of *Bales*. Because dependent Claims 9, 18 and 21 incorporate the limitations of their respective independent claims, *Bales* and *Bowman-Amuah* fail to teach or suggest every element of Claims 9, 18 and 21. Therefore, Applicant respectfully requests reconsideration and allowance of Claims 9, 18 and 21.

CONCLUSION

Applicant has made an earnest attempt to place this case in condition for immediate allowance. For the foregoing reasons and for all other reasons clear and apparent, Applicant respectfully requests reconsideration and allowance of the pending claims.

No fees are believed to be due, however, the Commissioner is hereby authorized to charge any additional amount required or to credit any overpayment to Deposit Account No. 02-0384 of Baker Botts LLP.

If the Examiner feels that prosecution of the present Application may be advanced in any way by a telephone conference, the Examiner is invited to contact the undersigned attorney at 214-953-6584.

Respectfully submitted,

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